

State of California
California Environmental Protection Agency
AIR RESOURCES BOARD

**Supplement to the
Final Statement of Reasons for Rulemaking,
Including Summary of Comments and Agency Response**

PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE DISTRIBUTED
GENERATION CERTIFICATION REGULATION

Public Hearing Date: October 19, 2006
Agenda Item No.: 06-9-5

This Supplement to the Final Statement of Reasons (FSOR) describes, and provides reasoning for the nonsubstantive changes that the Air Resources Board (ARB or Board) to the Distributed Generation Certification Regulations. All of these corrections were made in response to concerns raised by the Office of Administrative Law. The ARB is submitting this supplement to the FSOR for insertion in Office of Administrative Law (OAL) File Number 07-0626-02S.

The FSOR submitted to OAL stated that there were no changes to the original proposal. That statement was incorrect, and ARB did make some minor nonsubstantial changes for punctuation, grammar, and purposes of clarity. In addition, ARB provided a revised final regulation order with additional nonsubstantive changes for OAL to replace with the rulemaking package filed on June 26, 2007. The changes made do not materially alter any requirement, right responsibility, condition, prescription, or other regulatory element of any CCR provisions. These changes are set forth below.

- §94201 ~ two non-sub edits, remove underlined semicolon after California and strikeout the last word "or" in subsection (c).
- §94202 ~
 - A non-sub change was made in order to change the definitions to be listed in a number format as opposed to the current alpha format.
 - deleted the extra period in (o) Executive Order
 - deleted (z) from (25) formerly identified as (x) portable
 - corrected (29), formerly (k) to be consistent with CCR
 - The abbreviation PM is added and defined

- §94203 ~
 - ARB will made all tables consistent and corrected Table 2 to include the striking of Particulate Matter and the Emission Standard.
 - underline the period after percent in (b)(2)
- §94207 ~
 - the strikeout of "which are incorporated by reference herein" was removed
 - minor non-sub corrections: delete extra space, add period, and remove strike from -hr in (6)
- §94208 ~ (c) add comma after replacement
- §94209 ~ (b) delete extra space
- §94210 ~
 - delete and/ in (c)
 - remove the indent for (d) and delete the (a)
- §94211 ~ underline semicolon and strike comma and extend strikes to include spaces as suggested

The references listed on page 24 of the Staff Report: Initial Statement of Reasons, published September 1, 2006, are in fact documents that were relied upon for the rulemaking action. ARB inadvertently omitted the word "Draft" for the title of reference #4: Mauzey, Joshua L. and Vincent G. McDonell. "Cost Estimates for Surrogate Gas to Support SB1298 DG Certification." July 27, 2006. The reference should read Mauzey, Joshua L. and Vincent G. McDonell. "Draft Cost Estimates for Surrogate Gas to Support SB1298 DG Certification." July 27, 2006.

Pursuant to title 1, §20, South Coast AQMD Method 25.3 dated March 2000 was incorporated by reference in title 17, CCR, section 94207. The test method document was published as Appendix C to the Staff report and was made readily available from the ARB upon request. The test method was made available in the context of this rulemaking in the manner specified in Government Code section 11346.5(b). The test method is also available online at ARB's internet site.

The test method is incorporated by reference because it would be cumbersome, unduly expensive, and otherwise impractical to print in the CCR. Existing ARB administrative practice has been to have test methods incorporated by reference rather than printed in

the CCR because these procedures are highly technical and complex. They include the “nuts and bolts” engineering protocols, computer modeling, and laboratory practices required for certification of the regulated engines and equipment and have a very limited audience. Because ARB has never printed complete test methods in the CCR, the directly affected public is accustomed to the incorporation format used therein. The ARB’s test method as a whole is extensive, and it would be both cumbersome and expensive to print the lengthy, technically complex method for a limited audience in the CCR. Printing portions of ARB’s test methods that are incorporated by reference would be unnecessarily confusing to the affected public.